

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CASE NO. 04 11539 JLT

WALTER STICKLE, ANTHONY)
CALIENDO, JOHN PITINGOLO and)
DANIEL FISHER,)
Plaintiffs)
)
v.)
)
ARTHUR ORFANOS,)
Defendant)
)

PLAINTIFFS' MOTION TO EXTEND TIME FOR FILING PROPOSED PLAN

Now come the plaintiffs in the above-captioned matter and hereby move this Honorable Court for an extension of time to file a proposed plan for payment following the judgment debtor exam held in this matter on January 30, 2007, so that additional discovery can be taken. In support of this motion, the plaintiffs state the following:

1. A judgment debtor exam was held before this Court in this matter on January 30, 2007. During this exam, testimony was obtained from the defendant and debtor, Arthur Orfanos.

2. Mr. Orfanos testified that he has no assets of any value, is not currently employed, and had given away his share of ownership in his family business, Theos and Sons, Inc. Mr. Orfanos further testified that he has had no involvement with Theos and Sons, Inc. for quite some time and has not performed work for the company since 2005.

3. Upon information and belief, the information that Mr. Orfanos provided to the court concerning his involvement with Theos and Sons, Inc. is not accurate and further discovery is warranted before a proposed payment plan is submitted to the Court.

4. Although Mr. Orfanos testified that he has had no involvement with Theos and Sons, Inc. since 2005, Mr. Orfanos filed the corporation's Annual Report as recently as July 31, 2006, just six months ago. Attached as Exhibit A to this motion is a certified copy of the Theos and Sons, Inc. 2006 Annual Report, signed electronically by Arthur Orfanos. It is also noted that this filing lists Mr. Orfanos's address as 16 Milton St., Arlington, MA, where the corporate offices are located and not 54 Egerton Rd. in Arlington where Mr. Orfanos claims to have resided for the past four years.

5. Further, during the debtor exam, Mr. Orfanos testified that he believes he gave away his stock ownership in the corporation, but does not believe there are any documents relating to that transaction. Also attached as Exhibit A to this motion is a certified copy of the Articles of Organization for Theos and Sons, Inc. In Article 5A of the Articles, it provides that no shares of stock shall be sold or transferred on the books of the corporation until written notice is provided to the directors providing the opportunity to purchase the shares at a determined price. As such, either Arthur Orfanos still owns his shares of Theos and Sons, Inc. or there should be corporate records documenting the transfer of such stock.

6. In light of the foregoing apparent inconsistencies, further discovery is warranted. Specifically, the plaintiffs would like to subpoena the corporate records of Theos and Sons, Inc. and take oral deposition testimony, pursuant to Rule 30(b)(6) to obtain information concerning Mr. Orfanos's involvement with the corporation and ownership of its stock. Attached as Exhibit B to this motion is a proposed Deposition Notice relating to Theos and Sons, Inc. for this purpose.

7. The Court has ordered the plaintiffs to submit a proposed payment plan by February 13, 2007. However, the plaintiffs submit that the additional discovery

sought is both reasonable and necessary to prepare the proposed payment plan, will not create any undue prejudice to any party involved, and is in furtherance of the interests of justice.

WHEREFORE, for all of the foregoing reasons, the plaintiffs respectfully request an extension for 60 days, or some other time period within the discretion of the Court, for the plaintiffs to submit a proposed payment plan with the Court.

Respectfully submitted,

CLARK, HUNT & EMBRY

/s/ Michael B. Newman

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the pro se defendant in this matter, Arthur Orfanos, by mail to 54 Egerton Rd., Arlington, MA 02474 this 7th day of February, 2007.

/s/ Michael B. Newman
